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The *California Regulatory Notice Register* is an official state publication of the Office of Administrative Law containing notices of proposed regulatory actions by state regulatory agencies to adopt, amend or repeal regulations contained in the California Code of Regulations. The effective period of a notice of proposed regulatory action by a state agency in the *California Regulatory Notice Register* shall not exceed one year [Government Code § 11346.4(b)]. It is suggested, therefore, that issues of the *California Regulatory Notice Register* be retained for a minimum of 18 months.

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**PROPOSED ACTION ON
REGULATIONS**

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**TITLE 2. DEPARTMENT OF
TECHNOLOGY SERVICES**

**NOTICE OF INTENTION TO ADOPT
A CONFLICT OF INTEREST CODE
FOR TITLE 2. DEPARTMENT OF
TECHNOLOGY SERVICES**

NOTICE IS HEREBY GIVEN that the Department of Technology Services, pursuant to the authority vested in it by Section 87300 of the Government Code, proposes to adopt a conflict of interest code. The purpose of the adoption of a conflict of interest code is to implement the requirements of Sections 87300 through 87302 and 87306 of the Government Code.

Pursuant to Governor's Order S-13-04, the Department of Technology Services (the department) is a new state department created by the consolidation of the Stephen P. Teale Data Center, the Health and Human Services Data Center, and the Office of Network Services, Department of General Services. The Technology Services Board was also created pursuant to Governor's Order S-13-04.

The department proposes the adoption of a conflict of interest code as specified in Section 87300 of the Government Code. The conflict of interest code reflects the organization of the department as of January 1, 2006. The proposed code designates positions required to file and establishes disclosure categories for the department.

Copies of the proposed code are available and may be requested from the Contact Person set forth below.

Any interested person may submit written statements, arguments, or comments relating to the proposed code by submitting them in writing no later than December 4, 2006 or at the conclusion of the public hearing, if requested, whichever comes later, to the Contact Person set forth below.

At this time, no public hearing has been scheduled concerning the proposed adoption of a conflict of interest code. If any interested person or person's representative requests a public hearing, he or she must do no later

than December 4, 2006, by contacting the Contact Person set forth below.

The Department of Technology Services has prepared a written explanation of the reasons for the proposed conflict of interest code and has available the information on which the proposed are based. Copies of the proposed code, the reasons for the proposed code, and the information on which the disclosure categories are based may be obtained by contacting the Contact Person set forth below.

The Department of Technology Services has determined that the proposed conflict of interest code:

1. Impose no mandate on local agencies or school districts.
2. Impose no costs or savings on any state agency.
3. Impose no costs on any local agency or school district that are required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.
4. Will not result in any nondiscretionary costs or savings to local agencies.
5. Will not result in any costs or savings in federal funding to the state.
6. Will not have any potential cost impact on private persons, businesses or small business.

In making the proposed conflict of interest code, the department must determine that the requirements of Sections 87300 through 87302 and 87306 of the Government Code have been met.

Contact Person: All inquiries concerning this proposed conflict of interest code and any communication required by this notice should be directed to Sam Fong, Filing Officer at the Department of Technology Services, PO Box 1810, Rancho Cordova, CA 95741-1810.

**TITLE 3. DEPARTMENT OF FOOD
AND AGRICULTURE**

NOTICE IS HEREBY GIVEN that the Department of Food and Agriculture amended Section 3433, subsection (b) of the regulations in Title 3 of the California Code of Regulations pertaining to Diaprepes Root Weevil Interior Quarantine as an emergency action that was effective on August 29, 2006. The Department proposes to continue the regulation as amended and to complete the adoption process by submission of a Certificate of Compliance no later than December 27, 2006.

A public hearing is not scheduled. A public hearing will be held if any interested person, or his or her duly authorized representative, submits a written request for a public hearing to the Department no later than 15 days prior to the close of the written comment period. Fol-

lowing the public hearing if one is requested, or following the written comment period if no public hearing is requested, the Department of Food and Agriculture, at its own motion, or at the instance of any interested person, may adopt the proposal substantially as set forth without further notice.

Notice is also given that any person interested may present statements or arguments in writing relevant to the actions proposed to the agency officer named below on or before December 4, 2006.

Following the public hearing and the written comment period, the Department of Food and Agriculture may certify that there was compliance with provisions of Section 11346.1 of the Government Code within 120 days of the emergency regulation.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Existing law obligates the Department of Food and Agriculture to protect the agricultural industry of California and prevent the spread of injurious pests (Food and Agricultural Code Sections 401 and 403). Existing law provides the Secretary may establish, maintain, and enforce quarantine regulations, as he deems necessary, to circumscribe and exterminate or prevent the spread of pests (Food and Agricultural Code, Sections 5301, 5302 and 5322).

This amendment of Section 3433 added an approximate three mile area surrounding a portion of Fairbanks Ranch within San Diego County as an additional area under quarantine for Diaprepes root weevil. The effect of the amendment is to provide authority for the State to regulate movement of the articles and commodities covered that may move life stages of the Diaprepes root weevil from, into, and within that area under quarantine to prevent artificial spread of the weevil to noninfested areas to protect California's agricultural industry. There is no existing, comparable federal regulation or statute.

COST TO LOCAL AGENCIES AND SCHOOL DISTRICTS

The Department of Food and Agriculture has determined that Section 3433 does not impose a mandate on local agencies or school districts, except that an agricultural commissioner of a county under quarantine has a duty to enforce Section 3433. No reimbursement is required for Section 3433 under Section 17561 of the Government Code because the Agricultural Commissioner of San Diego County requested the change in the regulation.

The Department also has determined that the amended regulation will involve no additional costs or

savings to any state agency, no reimbursable costs or savings under Part 7 (commencing with Section 17500) of Division 4 of the Government Code to local agencies or school districts, no nondiscretionary costs or savings to local agencies or school districts, and no costs or savings in federal funding to the State.

EFFECT ON HOUSING COSTS

The Department has made an initial determination that the proposed action will not affect housing costs.

EFFECT ON BUSINESSES

The Department has made an initial determination that the proposed action will not have a significant state-wide adverse economic impact directly affecting some California businesses, including the ability of California businesses to compete with businesses in other states.

COST IMPACT ON REPRESENTATIVE PRIVATE PERSON OR BUSINESS

The cost impact of the amended regulation on a representative private person or business is not expected to be significantly adverse. The Department is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

ASSESSMENT

The Department has made an assessment that the proposed amendment to the regulation would not (1) create or eliminate jobs within California, (2) create new business or eliminate existing businesses within California, or (3) affect the expansion of businesses currently doing business within California.

ALTERNATIVES CONSIDERED

The Department of Food and Agriculture must determine that no reasonable alternative considered by the Department or that has otherwise been identified and brought to the attention of the Department would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

AUTHORITY

The Department proposes to amend Section 3433 pursuant to the authority vested by Sections 407, 5301, 5302 and 5322 of the Food and Agricultural Code.

REFERENCE

The Department proposes this action to implement, interpret and make specific Sections 5301, 5302 and 5322 of the Food and Agricultural Code.

EFFECT ON SMALL BUSINESS

The amendment of this regulation may affect small businesses.

CONTACT

The agency officer to whom written comments and inquiries about the initial statement of reasons, proposed action, location of the rulemaking file, request for a public hearing, and final statement of reasons may be directed is: Stephen S. Brown, Department of Food and Agriculture, Plant Health and Pest Prevention Services, 1220 N Street, Room A-316, Sacramento, California 95814, (916) 654-1017, FAX (916) 654-1018, E-mail: sbrown@cdfa.ca.gov. In his absence, you may contact Liz Johnson at (916) 654-1017. Questions regarding the substance of the proposed regulation should be directed to Stephen S. Brown.

INTERNET ACCESS

The Department has posted the information regarding this proposed regulatory action on its Internet website (www.cdfa.ca.gov/cdfa/pendingregs).

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Department of Food and Agriculture has prepared an initial statement of reasons for the proposed action, has available all the information upon which its proposal is based, and has available the express terms of the proposed action. A copy of the initial statement of reasons and the proposed regulation in underline and strikeout form may be obtained upon request. The location of the information on which the proposal is based may also be obtained upon request. In addition, when completed, the final statement of reasons will be available upon request. Requests should be directed to the contact named herein.

If the regulation amended by the Department differs from, but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of amendment. Any person interested may obtain a copy of said regulation prior to the date of adoption by contacting the agency officer (contact) named herein.

TITLE 3. DEPARTMENT OF FOOD AND AGRICULTURE

NOTICE IS HEREBY GIVEN that the Department of Food and Agriculture amended Section 3406(b)(1) of the regulations in Title 3 of the California Code of Regulations pertaining to the Mediterranean Fruit Fly Interior Quarantine as an emergency action that was effective on September 5, 2006. The Department proposes to continue the regulation as amended and to complete the amendment process by submission of a Certificate of Compliance no later than January 3, 2007.

NOTICE IS HEREBY GIVEN that the Department of Food and Agriculture also amended Section 3406(b)(1) of the regulations in Title 3 of the California Code of Regulations pertaining to the Mediterranean Fruit Fly Interior Quarantine as an emergency action that was effective on September 12, 2006. The Department proposes to continue the regulation as amended and to complete the amendment process by submission of a Certificate of Compliance no later than January 10, 2007.

A public hearing is not scheduled. A public hearing will be held if any interested person, or his or her duly authorized representative, submits a written request for a public hearing to the Department contact no later than 15 days prior to the close of the written comment period. Following the public hearing if one is requested, or following the written comment period if no public hearing is requested, the Department of Food and Agriculture may certify that there was compliance with the provisions of Section 11346.1 of the Government Code within 120 days of the emergency regulation.

Notice is also given that any person interested may present statements or arguments in writing relevant to the action proposed to the agency officer named below on or before December 4, 2006.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Existing law obligates the Department of Food and Agriculture to protect the agricultural industry in California and prevent the spread of injurious pests (Food and Agricultural Code, Sections 401 and 403). Existing law also provides that the Secretary may establish, maintain, and enforce such regulations as he deems necessary to prevent the spread of pests to protect California's agricultural industry (Food and Agricultural Code, Section 5322).

The amendment effective September 5, 2006, removed the quarantine area for Mediterranean fruit fly in the County of San Bernardino that also included a small portion of the County of Los Angeles. The amendment effective September 12, 2006, removed the quarantine

area for Mediterranean fruit fly in the County of Santa Clara. The effect of the amendments was to remove the authority for the State to regulate movement of hosts and possible carriers of Mediterranean fruit fly within and from those portions of Los Angeles, San Bernardino and Santa Clara counties to prevent artificial spread of the fly to noninfested areas in order to protect California's agricultural industry. There is no existing, comparable federal regulation or statute.

COST TO LOCAL AGENCIES AND SCHOOL DISTRICTS

The Department of Food and Agriculture has determined that Section 3406 does not impose a mandate on local agencies or school districts, except that an agricultural commissioner of a county under quarantine has a duty to enforce Section 3406. No reimbursement is required for Section 3406 under Section 177561 of the Government Code because these amendments remove the portions of Los Angeles, San Bernardino and Santa Clara counties that were in the area under quarantine from the regulation; therefore, enforcement is no longer necessary. There are no mandated costs associated with the removal of these areas from the regulation.

The Department also has determined that the amendments to the regulation will involve no costs or savings to any state agency, no nondiscretionary costs or savings to local agencies or school districts, no reimbursable costs or savings to local agencies or school districts under Part 7 (commencing with Section 17500) of Division 4 of the Government Code, and no costs or savings in federal funding to the State.

EFFECT ON HOUSING COSTS

The Department has made an initial determination that the proposed action will not affect housing costs.

EFFECT ON BUSINESSES

The Department has made an initial determination that the proposed action will not have a significant, statewide adverse economic impact directly affecting California businesses, including the ability of California businesses to compete with businesses in other states.

COST IMPACT ON REPRESENTATIVE PRIVATE PERSON OR BUSINESS

The cost impact of the amended regulation on a representative private person or business is not expected to be significantly adverse.

ASSESSMENT

The Department has made an assessment that the proposed amendment to the regulation would not (1) create or eliminate jobs within California, (2) create new business or eliminate existing businesses within California, or (3) affect the expansion of businesses currently doing business within California.

ALTERNATIVES CONSIDERED

The Department of Food and Agriculture must determine that no reasonable alternative considered by the Department or that has otherwise been identified and brought to the attention of the Department would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

AUTHORITY

The Department amended Section 3406(b) pursuant to the authority vested by Sections 407, 5301, 5302, and 5322 of the Food and Agricultural Code of California.

REFERENCE

The Department amended Section 3406(b) to implement, interpret and make specific Sections 5301, 5302, and 5322, Food and Agricultural Code.

EFFECT ON SMALL BUSINESS

The amendments of this regulation may affect small businesses.

CONTACT

The agency officer to whom written comments and inquiries about the initial statement of reasons, proposed action, location of the rulemaking file, request for a public hearing, and final statement of reasons may be directed is: Stephen S. Brown, Department of Food and Agriculture, Plant Health and Pest Prevention Services, 1220 N Street, Room A-316, Sacramento, California 95814, (916) 654-1017, FAX (916) 654-1018, E-mail:

sbrown@cdfa.ca.gov. In his absence, you may contact Liz Johnson at (916) 654-1017. Questions regarding the substance of the proposed regulations should be directed to Stephen S. Brown.

INTERNET ACCESS

The Department has posted the information regarding this proposed regulatory action on its Internet website (www.cdfa.ca.gov/cdfa/pendingregs).

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Department of Food and Agriculture has prepared an initial statement of reasons for the proposed action, has available all the information upon which its proposal is based, and has available the express terms of the proposed action. A copy of the initial statement of reasons and the proposed regulations in underline and strikeout form may be obtained upon request. The location of the information on which the proposal is based may also be obtained upon request. In addition, the final statement of reasons is available upon request. Requests should be directed to the contact named herein.

If the regulations amended by the Department differ from, but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency officer (contact) named herein.

TITLE 10. CALIFORNIA DEPARTMENT OF REAL ESTATE

NOTICE OF PROPOSED CHANGES IN THE REGULATIONS OF THE REAL ESTATE COMMISSIONER

Jeff Davi, Real Estate Commissioner, proposes to adopt, amend and/or repeal the proposed regulations described below in Title 10, California Code of Regulations, after considering all comments, objections and recommendations regarding the proposed action.

PROPOSED REGULATORY ACTION

The Commissioner proposes to adopt, amend and/or repeal sections 2805, 2809.3, 2840, 2840.1, 2849.01,

3005(c), (d), and (e), 3006(d), 3007.05, 3007.2, 3007.3, and 3011.4 in Title 10 of the California Code of Regulations (CCR).

PUBLIC COMMENTS

The Commissioner or his representative will hold a public hearing starting at 10:00 AM, on December 7, 2006, at the Department of Real Estate Examination Room, located at 2200 X Street, Suite 120B, Sacramento, California. The Examination Room is wheelchair accessible. At the hearing, any person may present statements or arguments orally or in writing relevant to the proposed action described in the Informative Digest. It is requested, but not required, that persons making oral comments at the hearing submit a written copy of their testimony to the Commissioner.

This hearing will be a hearing under Sections 10226 and 11011 of the Business and Professions Code to determine whether license and subdivision fees lower than the statutory maximum should be prescribed.

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Commissioner. The written comment period closes on December 7, 2006. All written comments must be received by 5:00 p.m. on that date at the Department's Sacramento Office as follows:

David B. Seals, Real Estate Counsel
Department of Real Estate
2201 Broadway
P. O. Box 187000
Sacramento, CA 95818-7000

Telephone: (916) 227-0789

Comments may be sent via electronic mail to regulations@dre.ca.gov or via fax to David B. Seals at (916) 227-9458.

AUTHORITY AND REFERENCE

The changes to the regulations are authorized by Business and Professions Code sections 10080, 10170.4, 10232, 10232.2, 10238, and 11281 to implement, interpret or make specific Business and Professions Code sections 10170.4, 10170.5, 10232, 10232.2, 10236.4, 10238, 10240, 10240.2, 10241, 10245, 11211.5, 11212, 11226, 11231, and 11234 and Financial Code sections 4970 and 4979.

**INFORMATIVE DIGEST/POLICY STATEMENT
OVERVIEW****SUMMARY OF EXISTING LAWS
AND REGULATIONS**

The Vacation Ownership and Time-share Act of 2004 (Chapter 697 of the Statutes of 2004) enacted a new statutory approach to the qualification and registration of time-share sales programs in California. The Department adopted regulations in 2005 to implement the act. The changes proposed herein in Regulation Sections 2805 and 2809.3 are intended to implement, interpret or make specific these laws and regulations.

Section 10240 and 10241 of the Business and Professions Code provide for the disclosure of specified information by real estate brokers to borrowers who are obtaining financing. Sections 2840 and 2840.1 of the Regulations were adopted to provide forms that would comply with the requirements of the statutes and would be in a format that meets the needs of borrowers, the Department, and the industry. The changes proposed herein in Regulation Sections 2840 and 2840.1 are intended to implement, interpret or make specific these laws and regulations.

Business and Professions Code Section 10232.2(c) requires reporting threshold mortgage brokers to report certain aspects of their business activities to the Department on an annual basis. Regulation 2849.01 provides the Mortgage Loan/Trust Deed Annual Report format to real estate brokers for this purpose. Section 4979 of the Financial Code requires licensees who originate covered loans to provide to the licensing agency documentation regarding these loans. The changes proposed herein in Regulation Section 2849.1 are intended to implement, interpret or make specific these laws and regulations.

In 1984 the real estate industry and the Department increased the emphasis on continuing education for real estate licensees. That was the year that Section 3005 was first adopted. In 1996 sweeping changes were made again, with many of the continuing education regulations being repealed. The changes proposed herein in Regulation Sections 3005, 3006, 3007.05, 3007.2, 3007.3 and 3011.4 are intended to revive the continuing education regulations by implementing, interpreting or making specific the regulations that currently apply to continuing education.

**SUMMARY OF THE EFFECT OF THE
PROPOSED ACTION****AMENDMENT OF SECTION 2805**

Changes the word “ten” to “eleven” to comply with Section 11211.5 of the Business and Professions Code.

AMENDMENT OF SECTION 2809.3

Adds a draft public report to items that must be submitted to the Department in an application for a nonspecific time-share interest multi-site time-share plan. This will match the requirements for a single-site time-share plan.

AMENDMENT OF SECTION 2840

Replaces the requirement that the form which is contained in the section is mandatory and provides that forms specified in the amended regulation may be used as well as other forms if approved by the Commissioner pursuant to Section 10241 of the Business and Professions Code.

REPEAL OF SECTION 2840.1

Repeals this form because it is obsolete if the amendment to Section 2840 is adopted.

AMENDMENT OF SECTION 2849.01

Adds a provision to require mortgage loan brokers, under Section 4979 of the Financial Code, who meet the requirements of Section 10232 and/or 10238 of the Business and Professions Code to report loans covered under Section 4970 of the Financial Code.

AMENDMENT OF SECTION 3005(c), (d), and (e)

Amends Section 3005(c) to expand the definition of “final examination” to include all continuing education offerings; 3005(d) to provide that a “material change” includes a change in the method of presentation of a continuing education offering; and 3005(e) to expand the definition of “completed” to include all continuing education offerings.

AMENDMENT OF SECTION 3006(d)

Amends Section 3006(d) to require a final examination for all continuing education offerings.

ADOPTION OF SECTION 3007.05

Specifies the forms of acceptable identification from students seeking admittance into either a live continuing education presentation or the final examination of a correspondence course.

ADOPTION OF SECTION 3007.2

Specifies that (a) any material change to an approved continuing education offering must be submitted to the Department for approval prior to use and (b) the submittal requires a new application and the associated fee.

AMENDMENT OF SECTION 3007.3

Amends the regulation to (1) apply to all continuing education offerings with the exception that examinees for correspondence continuing education offerings are limited to completion of final examinations for a maximum of twelve credit hours in any one 24 hour period; (2) define that 70% is the passing score for an examination; and (3) allow time involved in the final examination to be treated as "clock-hours" for course offerings.

AMENDMENT OF SECTION 3011.4

Amends Section 3011.4 to require that all petitions for equivalency for attendance at unapproved programs to obtain continuing education credit must include a final grade report for the final examination and a list of reading assignments with page references.

EFFECT ON SMALL BUSINESS

The proposed regulatory changes may affect small business.

DISCLOSURES REGARDING THE PROPOSED ACTION

1. Plain English drafting: The Commissioner has confirmed that these regulations have been drafted in plain English pursuant to Government Code sections 11342.580 and 11346.2(a)(1).
2. Mandate on local agencies and school districts: None.
3. Cost or savings to any state agency: None.
4. Cost to any local agency or school district which must be reimbursed in accordance with Government Code section 17561: None.
5. Other non-discretionary cost or savings imposed upon local agencies: None.

6. Cost or savings in federal funding to the state: None.
7. The Department is aware that there may be cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. However, such cost impact will not be significant.
8. The Commissioner has made an initial determination that the adoption, amendment or repeal of these regulations will not have a significant state-wide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.
9. Impact on jobs and business expansion, elimination or creation: The Commissioner has determined that this regulatory proposal will not have a significant impact on the creation or elimination of jobs within the State of California nor will it significantly affect the creation of new businesses, the elimination of existing businesses within the State of California, or the expansion of businesses currently doing business within the State of California.
10. Significant effect on housing costs: None.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5, subdivision (a)(13), the Commissioner must determine that no reasonable alternative he considered or that has otherwise been identified and brought to his attention would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

The Commissioner invites interested persons to present statements or arguments with respect to alternatives to the proposed regulatory action during the written comment period.

CONTACT PERSON

Inquiries concerning the proposed action may be directed to:

David B. Seals, Real Estate Counsel
Department of Real Estate
2201 Broadway
P. O. Box 187000
Sacramento, CA 95818-7000

Telephone: (916) 227-0789

The backup contact person is:

James L. Beaver, Assistant Chief Counsel
Department of Real Estate
2201 Broadway
P. O. Box 187000
Sacramento, CA 95818-7000

Telephone: (916) 227-0789

The name of the person who can respond to questions concerning the substance of the proposed regulatory action is:

David B. Seals, Real Estate Counsel
Department of Real Estate
2201 Broadway
P. O. Box 187000
Sacramento, CA 95818-7000

Telephone: (916) 227-0789

Please direct requests for copies of the proposed text of the regulation, the initial statement of reasons, the modified text of the regulation, if any, or other information upon which the rulemaking is based to:

David B. Seals, Real Estate Counsel
Department of Real Estate
2201 Broadway
P. O. Box 187000
Sacramento, CA 95818-7000

Telephone: (916) 227-0789

AVAILABILITY OF STATEMENT OF REASONS, TEXT OF PROPOSED REGULATIONS AND INTERNET SITE

The Commissioner will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at his office, at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulation, and the initial statement of reasons. The final statement of reasons once it is prepared pursuant to Section 11346.9 of the Government Code will also be a part of the rulemaking file and available for inspection and copying as indicated above. Portions of the rulemaking file and information regarding the Department are available through our website (www.dre.ca.gov). The express terms of the proposed action written in plain English are available from the agency contact person named in this notice. Copies may be obtained by contacting David B. Seals at the address and phone number listed above.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

The Real Estate Commissioner may, on his own motion or at the recommendation of any interested person made by written or oral comment, modify the Proposed Regulation and adopt the Regulation Change as modified if the change is determined to be one that the public could have reasonably anticipated from this Notice, the Informative Digest, and the Initial Statement of Reasons.

If the Commissioner decides to modify the Proposed Regulation change, the Department will make copies of the full text of the regulation, as originally proposed with the proposed modifications clearly indicated, available for not less than 15 days prior to adopting the modified regulation. Copies of the modified regulation will be mailed to all persons who have made written or oral comments concerning the Proposed Regulation and all persons who have requested notification of availability of the modifications.

Requests for modified regulations or other communications concerning the Proposed Regulation change should be addressed to the Department's contact person, David B. Seals, at the address and/or telephone number above.

COMPLIANCE WITH GOVERNMENT CODE §11346.4(A)(1) THROUGH (4)

The Department of Real Estate (the Department) has complied with Government Code §11346.4(a)(1) through (4) and Section 86, Title 10 of the California Code of Regulations, by mailing or delivering a copy of this Notice of Proposed Changes in the Regulations of the Real Estate Commissioner and of the Proposed Regulations with changes indicated in strikeout and underline to the Department's list of interested persons including:

1. Every person who has filed a Request for Notice of Regulatory Action with the Department.
2. The Director of the Department. (The Real Estate Commissioner and the Secretary of the Business, Transportation and Housing Agency).
3. A substantial number of real estate brokers. They are predominantly small businesses, some of which may be, or have been in the past, affected by our Proposed Regulation change. The Department has no way of knowing which are small businesses.
4. The California Association of Realtors, a real estate licensee trade organization and the California Building Industry Association, a homebuilders trade organization.

5. A substantial number of land developers. Not small businesses by definition, but some of which may be, or have been in the past, affected by our Proposed Regulations.

TITLE 13. CALIFORNIA AIR RESOURCES BOARD

NOTICE OF PUBLIC HEARING TO CONSIDER AMENDMENTS TO CALIFORNIA'S EMISSION WARRANTY INFORMATION REPORTING AND RECALL REGULATIONS AND EMISSION TEST PROCEDURES

The Air Resources Board (the Board or ARB) will conduct a public hearing at the time and place noted below to consider amendments to California's Emission Warranty Information Reporting (EWIR) and recall regulations and emission test procedures. The proposed amendments would revise, clarify and make specific vehicle and engine manufacturers' responsibilities regarding the reporting of emission-related warranty activities and required corrective action for systemic emission-control defects identified through the EWIR Program.

DATE: December 7, 2006

TIME: 9:00 a.m.

PLACE: Kern County Board of Supervisors
Board Chambers
1115 Truxtun Avenue, 1st Floor
Bakersfield, CA 93301

This item will be considered at a two-day meeting of the Board, which will commence at 9:00 a.m., December 7, 2006, and may continue at 8:30 a.m., December 8, 2006. This item may not be considered until December 8, 2006. Please consult the agenda for the meeting, which will be available at least 10 days before December 7, 2006, to determine the day on which this item will be considered.

For individuals with sensory disabilities, this document is available in Braille, large print, audiocassette or computer disk. Please contact ARB's Disability Coordinator at (916) 323-4916 by voice or through the California Relay Services at 711, to place your request for disability services. If you are a person with limited English and would like to request interpreter services, please contact ARB's Bilingual Manager at (916) 323-7053.

INFORMATIVE DIGEST OF PROPOSED ACTION AND POLICY STATEMENT OVERVIEW

Sections Affected: Proposed amendments to title 13, California Code of Regulations (CCR), sections 1958(c), 2111, 2122, 2136 and 2141; adoption of new article 5, "Procedures for Reporting Failures of Emission-Related Equipment and Required Corrective Action," with new sections 2166-2174, in title 13, CCR, division 3, chapter 2; and proposed amendments to the following title 13 regulations and the documents incorporated therein: section 1961(d) and the "California Exhaust Emission Standards And Test Procedures For 2001 And Subsequent Model Passenger Cars, Light-Duty Trucks And Medium-Duty Vehicles," section 1956.8(b) and the "California Exhaust Emission Standards and Test Procedures for 2004 and Subsequent Model Heavy-Duty Diesel-Engines and Vehicles," section 1956.8(d) and the "California Exhaust Emission Standards and Test Procedures for 2004 and Subsequent Model Heavy-Duty Otto-Cycle Engines," section 1976(c) and the "California Evaporative Emission Standards and Test Procedures for 1978 and Subsequent Model Motor Vehicles," and section 1978(b) and the incorporated "California Refueling Emission Standards and Test Procedures for 2001 and Subsequent Model Motor Vehicles."

Background: California Health and Safety Code (H & S Code) section 43105 authorizes ARB to order a recall or other corrective action for violations of its emission standards or test procedures. Under this same authority, ARB has wide discretion to determine the facts constituting compliance with these emission standards and test procedures, to fashion corrective action, including recalls and other remedies, for noncompliance, and to adopt procedures for making these determinations. H & S Code section 43106 requires that production vehicles or engines must in all material respects be substantially the same as the certification test vehicles manufacturer use to obtain ARB's certification.

In 1982, the Board adopted regulations that established ARB's first in-use vehicle recall program. The regulations were intended to reduce vehicular emissions by: (1) ensuring that noncompliant vehicles are identified, recalled, and repaired to meet the applicable emission standards and comply with the test procedures in customer use; and (2) encouraging manufacturers to improve the design and durability of emission control components to avoid the expense and adverse publicity of a recall.

In 1988, as an expansion to the 1982 in-use program, ARB adopted the Emissions Warranty Information Reporting (EWIR) regulations (title 13, CCR, sections 2141-2149) for tracking emission-control component defects affecting on-road vehicles. The EWIR regula-

tions require manufacturers to review all emission-related warranty claims on a quarterly basis to determine the number of repairs or replacements made for each component. Each manufacturer must report warranty activity that exceeds a one percent level and has additional reporting requirements when a component's warranty claim rate exceeds four percent on an engine family or test group basis. When an emission-control component's EWIR rate exceeds a true four percent level, the defect is considered to be systemic in nature. Should in-use vehicles or engines exhibit a systemic defect and the manufacturer's EWIR submittals acknowledge that fact, the staff considers the situation to be a violation of test procedure requirements and possibly emission standards. The warranty reporting regulations apply to all on-road 1990 and newer model-year passenger cars, light-, medium-, and heavy-duty trucks, California-certified engines used in such vehicles, and motorcycles.

In some cases, usually involving relatively small vehicle populations or simple defects, in which manufacturers have reported valid warranty claims in excess of four percent for an emission control device manufacturers have agreed to correct the situation by recalling the affected vehicles and installing more durable emission control devices. In other cases manufacturers have agreed to extend the emission control warranties on the components in question. In many other cases, however no corrective action has occurred. In two notable cases that involved large vehicle populations and more complex defects, Daimler-Chrysler Corporation and Toyota Motor Corporation claimed (over ARB's objection) that despite evidence of a pervasive defect in the emission control components or systems of their vehicles, the ARB was not authorized to order that the defect be corrected since the affected vehicles allegedly did not exceed emission standards, on average for all vehicles, over their useful lives.

The Toyota case was litigated and an administrative law judge upheld Toyota's claim. As a result, Toyota did not correct the defects ARB had determined to exist in the on-board diagnostic (OBD) systems in over 300,000 of its vehicles in California. In response, the Board amended the OBD regulations to enhance their enforceability so that should a similar OBD defect occur in the future, corrective action would result.

The Daimler-Chrysler case involved dozens of models, sold over several years, many of whose catalytic converter substrates disintegrated in use. Despite ample evidence that the catalyst design was defective and that catalysts were failing in-use, ARB was not able to show that for each individual model the catalyst failure would result in the subject vehicles exceeding emission standards, on average, during the vehicles' useful life. The result was a 2005 settlement agreement in which Daim-

ler-Chrysler agreed, among other things, to remedy only 27 percent of the vehicles that contained the catalyst that ARB had determined to be defective. Had the proposed amendments discussed below been in place, staff believes most of the Chrysler vehicles involved in that matter would have undergone corrective action and that corrective action would have been implemented in many other cases where high warranty claims rates occurred.

Proposed Amendments: Based on the Board's statutory authority and its experience in the implementation and administration of the EWIR regulations, the staff has identified three aspects of the existing regulation that need improvement, specifically: (1) the proof required to demonstrate violations of ARB's emission standards or test procedures, (2) the corrective actions available to ARB to address the violations and, (3) the way emissions warranty information is reported to ARB. The proposed amendments target these aspects of the current regulations and, if adopted, will result in corrective action to more vehicles that have defective emission control devices or systems, thereby reducing emissions.

After it adopted the EWIR regulations, the Board adopted regulations (title 13, CCR, sections 1968.1-1968.5) requiring OBD systems on most new vehicles sold in the state. These requirements offer ways of determining vehicles' compliance with emission standards and test procedure requirements that were not taken into account when the EWIR regulations were originally adopted. The proposal would capitalize on the ability of the now mature OBD program to detect failing components, prompt drivers to seek repairs and ensure that vehicles with systemic emission control defects are corrected by the vehicle manufacturers in a more timely and effective manner than is occurring under the current regulations. The staff's proposal would also streamline administration and reduce program reporting. The staff also proposes to link directly the exceedances of emissions warranty reporting levels with ARB's durability certification test procedures. The proposed amendments would take effect with the 2010 model year.

(1) Proof of Violations: Staff proposes a change in the proof necessary for determining if a group of vehicles is in violation of emission standards or test procedures. Under staff's proposal, once a group of vehicles exceeds a valid warranty claim rate threshold of four percent or 50 vehicles, whichever is greater, ("warranty claims threshold") it would be considered to be in violation of test procedures and possibly emission standards and the manufacturer would be required to implement a recall and/or other corrective action, as specified. The existing standard that a class or category of vehicles

must exceed an emission standard on average over its useful life would be eliminated.

(2) Corrective action: Under the staff's proposal, if the warranty claims threshold is exceeded for an exhaust after-treatment device, the Executive Officer may order a recall and/or other corrective action, including an extended warranty, but recall would be the remedy that would be considered first. If the warranty claims threshold is exceeded for emissions components other than exhaust after-treatment devices, the Executive Officer may also order a recall and/or other corrective action, including an extended warranty, but the extended warranty would be the remedy that would be considered first. For vehicles with malfunctioning on-board computers, vehicles not equipped with OBD, or vehicles equipped with OBD systems that do not function properly, a recall and/or corrective action, including an extended warranty, would be required when the warranty claims threshold is exceeded for any emissions component, with the recall remedy being considered first. All replacement parts would be required to be of improved quality and durability. In some cases, extended warranties could be required for periods beyond the affected vehicles' useful lives. The proposed amendments would make it clear that manufacturers may request hearings when recalls are ordered, and that the record would be limited to the information generated in the emissions warranty reports and any other information required by the Executive Officer up to the date of the recall order. Consistent with statute, under the staff's proposal hearings would not be available when other types of corrective action besides recall are ordered, but parties would retain all rights to challenge such orders in court.

(3) Reporting: The proposal would increase the threshold for which an EWIR is required from one percent to four percent or 50 claims (whichever is greater) for all model vehicles subject to reporting requirements. Follow up EWIR reports would be required on an annual basis, rather than quarterly. When the unverified warranty claims rate reaches ten percent, a Supplemental Emissions Warranty Information Report (SEWIR) would be required. The SEWIR replaces the FIR, which currently is issued when an unverified claims rate exceeds four percent. The SEWIR would determine the valid claims rate, and if above four percent would trigger the corrective action process. The FIR report would no longer be required.

COMPARABLE FEDERAL REGULATIONS

Current California emissions warranty reporting requirements are more stringent and comprehensive than their federal counterparts. (See, generally 40 C.F.R.

Part 85, in particular 40 C.F.R. sections section 85.1901 and 85.1903.) Federal law requires a onetime report — the emissions defect information report (EDIR) — describing the defect, the vehicles it affects and its impact on emissions. California law calls for similar information to the EDIR, but requires the manufacturer to file follow-up reports for escalating failure rates — the three progressive reports (EWIR, FIR and EIR) which are discussed above. Unlike federal law, California law explicitly ties the warranty information to the recall process, requiring the ARB to evaluate the need for a recall after the submission of the EIR. (title 13, CCR, section 2148.) Federal law has a different, potentially less stringent standard for ordering vehicle recalls than California does. Federal law allows a recall when a substantial number of vehicles do not conform to emission standards (42 U.S.C. section 7541(c)), while California regulations require a demonstration that a class or category of vehicles contains a defect that will cause the vehicles on average to exceed emission standards over their useful lives. In 1990, U.S. Environmental Protection Agency formally found that ARB's emissions warranty reporting and recall regulations were within the scope of previous waivers of federal preemption. (55 Fed. Reg. 28823 (July 13, 1990).)

Although they are somewhat different, the two reporting regimes and the two recall standards have been comparably effective in prompting recalls where manufacturers have agreed to assume responsibility for correcting emissions related defects — but both the federal and state regulations have had limited success where manufacturers object to and contest the recalls, especially in complex cases. If adopted, the proposed amendments would modify and streamline California's requirements for defect reporting. These requirements would still be more extensive than the comparable federal requirements. The proposed amendments would also provide additional grounds for requiring a vehicle recall or other corrective action to remedy systemic defects revealed in emissions warranty reporting which could be proven without the resource intensive emissions testing that is required under current federal law and California regulations. This might lead to the implementation of more recalls or remedial actions when high rates of warranty failures are reported, than would be the case under current California or federal law in this area.

AVAILABILITY OF DOCUMENTS AND AGENCY CONTACT PERSONS

The Board staff has prepared a Staff Report: Initial Statement of Reasons (ISOR) for the proposed regulatory action, which includes a summary of the environmental and economic impacts of the proposal. The re-

port is entitled: "Staff Report: Initial Statement of Reasons for the Proposed Rulemaking — Public Hearing to Amend California's Emission Warranty Information Reporting and Recall Regulations and Emission Test Procedures."

Copies of the ISOR and the full text of the proposed regulatory language, in underline and strikeout format to allow for comparison with the existing regulations, may be accessed on the ARB's website listed below, or may be obtained from the Public Information Office, Air Resources Board, 1001 I Street, Visitors and Environmental Services Center, 1st Floor, Sacramento, California 95814, (916) 322-2990 at least 45 days prior to the scheduled hearing on December 7, 2006.

Upon its completion, the Final Statement of Reasons (FSOR) will be available and copies may be requested from the agency contact persons in this notice, or may be accessed on the ARB's website listed below.

Inquiries concerning the substance of the proposed regulation may be directed to the designated agency contact persons: Mr. Tom Valencia, Air Pollution Specialist, Field Inspection and Testing Section, at (626) 575-6726, or tvalenci@arb.ca.gov, or Mr. Tony Dickerson, Air Resources Engineer, Field Inspection and Testing Section, at (626) 459-4350 or tdickers@arb.ca.gov.

Further, the agency representative and designated back-up contact person to whom non-substantive inquiries concerning the proposed administrative action may be directed is Alexa Malik, Regulations Coordinator, (916) 322-4011. The Board has compiled a record for this rulemaking action, which includes all the information upon which the proposal is based. This material is available for inspection upon request to the contact persons.

This notice, the ISOR and all subsequent regulatory documents, including the FSOR, when completed, are available on the ARB Internet site for this rulemaking at www.arb.ca.gov/regact/recall06/recall06.htm.

COSTS TO PUBLIC AGENCIES AND TO BUSINESSES AND PERSONS AFFECTED

The determinations of the Board's Executive Officer concerning the costs or savings necessarily incurred by public agencies and private persons and businesses in reasonable compliance with the proposed regulations are presented below.

Pursuant to Government Code sections 11346.5(a)(5) and 11346.5(a)(6), the Executive Officer has determined that the proposed regulatory action will create costs to the ARB. The ARB is expected to incur ongoing costs of approximately \$200,000 per year for two additional staff to implement the regulation and en-

force compliance. Costs would not be created to any other state agency, or in federal funding to the state. The regulation will not create costs or mandate to any local agency or school district whether or not reimbursable by the state pursuant to part 7 (commencing with section 17500), division 4, title 2 of the Government Code, or other nondiscretionary cost or savings to state or local agencies.

The businesses to which the proposed requirements are addressed and for which compliance would be required are manufacturers of California motor vehicles. There are presently 35 domestic and foreign corporations that manufacture California-certified passenger cars, light-duty trucks, and medium-duty gasoline and diesel fueled vehicles that would be subject to the proposed amendments, 20 heavy-duty engine manufacturers, and over 60 motorcycle manufacturers. Only one motor vehicle manufacturing plant (NUMMI) is located in California.

In developing this regulatory proposal, the ARB staff evaluated the potential economic impacts on representative private persons or businesses. Costs to the manufacturers should be reduced by the significantly minimized reporting requirement. Because manufacturers are fully expected, and required, to comply with the regulations, enforcement costs to manufacturers should also be negligible. However, to the extent the regulations increase the number of corrective actions implemented, costs to those manufacturers that have produced vehicles with defective components may increase. Staff estimates that the industry wide cost will be roughly equivalent to current costs, however.

The Executive Officer has made an initial determination that the proposed regulatory action will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states, or on representative private persons. Again, any cost impacts are expected to be slight, absorbable or positive.

In accordance with Government Code section 11346.3, the Executive Officer has determined that the proposed regulatory action will not affect the creation or elimination of jobs within the State of California, the creation of new businesses or elimination of existing businesses within the State of California, or the expansion of businesses currently doing business within the State of California. Any impact on businesses in California is expected to be slight, absorbable or positive. A detailed assessment of the economic impacts of the proposed regulatory action can be found in the ISOR.

The Executive Officer has also determined, pursuant to title 1, CCR, section 4, that the proposed regulatory action will not affect small businesses because the cost

impacts are expected to be slight, absorbable or positive.

In accordance with Government Code sections 11346.3(c) and 11346.5(a)(11), the Executive Officer has found that the reporting requirements of the regulation which apply to businesses are necessary for the health, safety, and welfare of the people of the State of California.

Before taking final action on the proposed regulatory action, the Board must determine that no reasonable alternative considered by the board or that has otherwise been identified and brought to the attention of the board would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

SUBMITTAL OF COMMENTS

The public may present comments relating to this matter orally or in writing at the hearing, and in writing or by email before the hearing. To be considered by the Board, written submissions not physically submitted at the hearing must be received **no later than 12:00 noon, December 6, 2006**, and addressed to the following:

Postal mail: Clerk of the Board, Air
Resources Board
1001 I Street, Sacramento,
California 95814

Electronic submittal: <http://www.arb.ca.gov/lispub/comm/bclist.php>

Facsimile submittal: (916) 322-3928

The Board requests but does not require that 30 copies of any written statement be submitted and that all written statements be filed at least 10 days prior to the hearing so that ARB staff and Board Members have time to fully consider each comment. The board encourages members of the public to bring to the attention of staff in advance of the hearing any suggestions for modification of the proposed regulatory action.

STATUTORY AUTHORITY AND REFERENCES

This regulatory action is proposed under that authority granted in Health and Safety Code, sections 39600, 39601, and 43105. This action is proposed to implement, interpret and make specific sections Health and Safety Code sections 43000, 43009.5, 43018, 43101, 43104, 43105, 43106, 43107 and 43204-43205.5.

HEARING PROCEDURES

The public hearing will be conducted in accordance with the California Administrative Procedure Act, title 2, division 3, part 1, chapter 3.5 (commencing with section 11340) of the Government Code.

Following the public hearing, the Board may adopt the regulatory language as originally proposed, or with nonsubstantial or grammatical modifications. The Board may also adopt the proposed regulatory language with other modifications if the text as modified is sufficiently related to the originally proposed text that the public was adequately placed on notice that the regulatory language as modified could result from the proposed regulatory action; in such event the full regulatory text, with the modifications clearly indicated, will be made available to the public, for written comment, at least 15 days before it is adopted.

The public may request a copy of the modified regulatory text from the ARB's Public Information Office, Air Resources Board, 1001 I Street, Visitors and Environmental Services Center, 1st Floor, Sacramento, CA 95814, (916) 322-2990.

TITLE 13. CALIFORNIA AIR RESOURCES BOARD

NOTICE OF PUBLIC HEARING TO CONSIDER ADOPTION OF AMENDMENTS TO THE AIR RESOURCES BOARD'S VOLUNTARY ACCELERATED VEHICLE RETIREMENT REGULATION

The Air Resources Board (the Board or ARB) will conduct a public hearing at the time and place noted below to consider adoption of amendments to the existing Voluntary Accelerated Vehicle Retirement (VAVR) regulation. The proposed amendments include using remote sensing devices as an additional means of identifying higher emitting vehicles as possible candidates for voluntary retirement, providing appropriate credit for identified high-emitting vehicles, and clarifying existing regulatory language. These regulatory amendments are proposed to be considered in conjunction with proposed non-regulatory revisions to the Carl Moyer Program Guidelines: Light-Duty Vehicle Chapter, which are scheduled for consideration at the same public hearing and are subject to a separate notice.

DATE: December 7, 2006

TIME: 9:00 a.m.

PLACE: Kern County Board of Supervisors
1115 Truxtun Avenue
Board Chambers, 1st Floor
Bakersfield, CA 93301

This item will be considered at a two-day meeting of the Board, which will commence at 9:00 a.m., December 7, 2006, and may continue at 8:30 a.m., December 8, 2006. This item may not be considered until December 8, 2006. Please consult the agenda for the meeting, which will be available at least 10 days before December 7, 2006, to determine the day on which this item will be considered.

For individuals with sensory disabilities, this document is available in Braille, large print, audiocassette, or computer disk. Please contact ARB's Disability Coordinator at (916) 323-4916 by voice or through California Relay Services at 711, to place your request for disability services. If you are a person with limited English and would like to request interpreter services, please contact ARB's Bilingual Manager at (916) 323-7053.

INFORMATIVE DIGEST OF PROPOSED ACTION AND POLICY STATEMENT OVERVIEW

Sections Affected: Proposed amendments to title 13, California Code of Regulations, sections 2601, 2602, 2603, 2604, 2605, 2606, 2607, 2608, 2609, 2610, Appendix A, Appendix B, Appendix C and Appendix D. Proposed repeal of section 2611.

Background: Vehicle scrapping or Voluntary Accelerated Vehicle Retirement (VAVR) programs were first introduced in California in the early 1990s. The goal of such programs is to retire older, more polluting vehicles earlier in their expected lifetimes, thereby eliminating the emissions associated with their operation. Real emission reductions are achieved by ensuring that qualified vehicles are still fully operational and have useful lives remaining at the time they are scrapped. A vehicle accepted into the program is retired by crushing it so that it and its parts are rendered unusable.

VAVR programs are strictly voluntary programs overseen by ARB and administered by local air districts. Typically, private enterprise operators work under contract with a district and are responsible for evaluating, approving, and disposing of qualified light-duty vehicles. To qualify for a VAVR program, a vehicle must meet registration, functionality, and equipment eligibility criteria. To accommodate car collectors and others with interest in vehicles offered for retirement, VAVR programs provide the public with an opportunity to purchase vehicles in whole or in part before the vehicles are retired.

California Health and Safety Code sections 44100-44122 established the framework for VAVR programs and required ARB to adopt a regulation governing VAVR that included provisions for market-based, privately-operated VAVR enterprises and the

generation of emission reduction credits. The Board adopted VAVR regulations in 1998 and later amended these regulations in 2002. These regulations appear at title 13 California Code of Regulations (CCR) sections 2600-2611.

Legislative changes enacted with the signing of Assembly Bill 923 (Firebaugh, 2004) provided for additional funding of VAVR projects through the Carl Moyer Program. In response to those changes, the Board first adopted project criteria for light-duty vehicle programs, including VAVR programs, in the 2005 revision to the Carl Moyer Program Guidelines. At that time, the Board approved guidelines for conventional VAVR programs operated in accordance with ARB's existing regulations for VAVR.

There is growing interest in using remote sensing devices to identify higher emitting vehicles for potential participation in VAVR programs. A number of studies have shown that remote sensing devices can be effective tools for this purpose. Remote sensing devices typically use infrared and/or ultraviolet spectroscopy to measure the concentrations of air pollutants in the exhaust of passing vehicles as they are driven. As a first step toward incorporating this tool into the Carl Moyer Program, the 2005 Guidelines authorized a remote sensing pilot program, the "High-Emitting Vehicle Identification, Repair, and Scrapping Program" to be run by the South Coast Air Quality Management District.

Description of the Proposed Regulatory Action:

The proposed amendments to the 2002 VAVR regulation would authorize the optional use of remote sensing devices and other technologies to identify high emitting vehicles as possible candidates for voluntary retirement. These regulatory amendments are proposed to be considered in conjunction with closely related non-regulatory amendments to the Carl Moyer Program Guidelines. Other changes to the regulation are proposed to improve clarity, correct errors, and to delete obsolete provisions.

The effect of these changes would be to expand opportunities for implementing high emitter VAVR programs. In such programs, the highest emitting vehicles in the fleet would be identified via remote sensing devices or other methods and the owners of these vehicles would be contacted and offered an opportunity to voluntarily retire their vehicles. The proposed changes to the VAVR regulation specify the framework for running a high emitter VAVR program and allow for calculating emission reductions that reflect the high-emitting nature of qualified vehicles. The proposed changes will leave in place existing provisions for conventional VAVR programs. This allows Districts the flexibility to continue to operate the current simpler program while providing opportunities to expand if so desired.

Specific proposed changes to the VAVR regulation are as follows:

- Section 2608 is proposed to be revised to allow for the generation of additional emission reduction credits for the voluntary retirement of high emitting vehicles.
- Section 2610 is proposed to be revised to authorize the optional use of remote sensing devices and other ARB-approved methods to identify high emitting vehicles. The proposed language would replace original section 2610, which referenced a pilot program that has been completed.
- Section 2611 is proposed for deletion because the provisions of that section depended on funding for Measure M1 of the 1994 State Implementation Plan that will not be forthcoming.
- Other provisions are proposed for revision to improve clarity, correct grammatical and organizational errors, and to increase consistency within the regulation.

COMPARABLE FEDERAL REGULATIONS

U.S. EPA has published a document, "Guidance for the Implementation of Accelerated Retirement of Vehicles Programs," but has not promulgated formal regulations for this program.

AVAILABILITY OF DOCUMENTS AND AGENCY CONTACT PERSONS

The ARB staff has prepared a Staff Report: Initial Statement of Reasons (ISOR) for the Proposed Amendments to the Voluntary Accelerated Vehicle Retirement Regulation (Staff Report) for the proposed regulatory action, which includes a summary of the environmental and economic impacts of the proposal. The ISOR is entitled "Staff Report: Initial Statement of Reasons for Rulemaking—Proposed Amendments to the Air Resources Board's Regulations for Voluntary Accelerated Light-Duty Vehicle Retirement."

Copies of the ISOR and the full text of the proposed regulatory language, in underline and strikeout format to allow for comparison with the existing regulations, may be accessed on the ARB's web site listed below, or may be obtained from the Public Information Office, Air Resources Board, 1001 I Street, Visitors and Environmental Services Center, 1st Floor, Sacramento, CA 95814, (916) 322-2990 at least 45 days prior to the scheduled hearing on December 7, 2006.

Upon its completion, the Final Statement of Reasons (FSOR) will be available and copies may be requested

from the agency contact persons in this notice, or may be accessed on the ARB's web site listed below.

Inquiries concerning the substance of the proposed regulation may be directed to the designated agency contact persons; John Kato, Manager of the Innovative Strategies Section, at (916) 322-2891 or by e-mail at jkato@arb.ca.gov, Andrew Panson, Staff Air Pollution Specialist, at (916) 323-2881 or by e-mail at apanson@arb.ca.gov, or Tom Roemer, Air Pollution Specialist, at (916) 322-1520 or by e-mail at troemer@arb.ca.gov.

Further, the agency representative and designated back-up contact person to whom non-substantive inquiries concerning the proposed administrative action may be directed is Alexa Malik, Regulations Coordinator, (916) 322-4011, or Lori Andreoni, Clerk of the Board, at 322-5594. The Board has compiled a record for this rulemaking action, which includes all the information upon which the proposal is based. This material is available for inspection upon request to the contact persons.

This notice, the ISOR, and all subsequent regulatory documents, including the Final Statement of Reasons, when completed, are available on the ARB Internet site for this rulemaking at www.arb.ca.gov/regact/vavr06/vavr06.htm

COSTS TO PUBLIC AGENCIES AND TO BUSINESSES AND PERSONS AFFECTED

The determinations of the Board's Executive Officer concerning the costs or savings necessarily incurred by public agencies, private persons, and businesses in reasonable compliance with the proposed regulations are presented below.

The ARB Executive Officer has determined that the proposed regulatory action will not create costs or savings, as defined in Government Code section 11346.5(a)(5) and 11346.5(a)(6), to any state agency or in federal funding to the state, costs or mandate to any local agency or school district whether or not reimbursable by the state pursuant to Part 7 (commencing with section 17500), Division 4, Title 2 of the Government Code, or other non discretionary savings to local agencies.

Participation in the VAVR regulations is purely voluntary. Businesses, individuals and districts will not participate in VAVR programs unless it is economically beneficial for them to do so. By purchasing credits generated under VAVR programs, businesses may delay having to install more expensive air pollution control equipment or implementing more costly process modifications. Accordingly, the economic impacts of the proposed regulatory action are expected to be positive. In developing this regulatory proposal, the ARB staff

evaluated the potential economic impacts on representative private persons or businesses. The ARB is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

The Executive Officer has made an initial determination that the proposed regulatory action will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states, or on representative private persons.

In accordance with Government Code section 11346.3, the Executive Officer has determined that the proposed regulatory action will not affect the creation or elimination of jobs within the State of California, the creation of new businesses or elimination of existing businesses within the State of California, or the expansion of businesses currently doing business within the State of California. A detailed assessment of the economic impacts of the proposed regulatory action can be found in the ISOR.

The Executive Officer has also determined, pursuant to Government Code section 11346.5(a)(3)(B), that the proposed regulatory action will not affect small businesses because this is a change to a regulation that is voluntary with respect to small businesses and there are no mandated requirements and no associated impacts.

In accordance with Government Code sections 11346.3(c) and 11346.5(a)(11), the Executive Officer has found that the reporting requirements of the regulation that apply to businesses are necessary for the health, safety, and welfare of the people of the State of California.

Before taking final action on the proposed regulatory action, the Board must determine that no alternative considered by the Board or that has otherwise been identified and brought to the attention of the Board would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

SUBMITTAL OF COMMENTS

The public may present comments relating to this matter orally or in writing at the hearing, and in writing or by e-mail before the hearing. To be considered by the Board, written submissions not physically submitted at the hearing must be received **no later than 12:00 noon, December 6, 2006**, and addressed to the following:

Postal mail: Clerk of the Board, Air Resources Board
1001 I Street, Sacramento, California 95814

Electronic submittal: <http://www.arb.ca.gov/lispub/comm/bclist.php>

Facsimile submittal: (916) 322-3928

The Board requests but does not require that 30 copies of any written statement be submitted and that all written statements be filed at least ten days prior to the hearing so that ARB staff and Board Members have time to fully consider each comment. The ARB encourages members of the public to bring to the attention of staff in advance of the hearing any suggestions for modification of the proposed regulatory action.

STATUTORY AUTHORITY AND REFERENCES

This regulatory action is proposed under that authority granted in Health and Safety Code, sections 39600 and 39601, 44101 and 44102. This action is proposed to implement, interpret and make specific Health and Safety Code sections 39002, 39003, 42400, 42400.1, 42400.2, 42400.3, 42400.4, 42400.5, 42400.6, 42401, 42402, 42402.1, 42402.2, 42402.3, 42402.5, 42403, 43000, 43013, 43016, 44101, 44102, 44103, 44105, 44106, 44107, 44109, 44120, and 44121.

HEARING PROCEDURES

The public hearing will be conducted in accordance with the California Administrative Procedure Act, title 2, division 3, part 1, chapter 3.5 (commencing with section 11340) of the Government Code.

Following the public hearing, the Board may adopt the regulatory language as originally proposed, or with non substantial or grammatical modifications. The Board may also adopt the proposed regulatory language with other modifications if the text as modified is sufficiently related to the originally proposed text that the public was adequately placed on notice that the regulatory language as modified could result from the proposed regulatory action. In the event that such modifications are made, the full regulatory text, with the modifications clearly indicated, will be made available to the public for written comment at least 15 days before it is adopted.

The public may request a copy of the modified regulatory text from the ARB's Public Information Office, Air Resources Board, 1001 I Street, Visitors and Environmental Services Center, 1st Floor, Sacramento, CA 95814, (916) 322-2990.

TITLE 13. DEPARTMENT OF MOTOR VEHICLES

NOTICE IS HEREBY GIVEN

The Department of Motor Vehicles (the department) proposes to adopt Sections 182.00, 182.01 and 182.02 in Article 3.1, of Chapter 1, Division 1, Title 13 of the California Code of Regulations, Special Interest License Plates.

PUBLIC HEARING

A public hearing regarding this proposed regulatory action is not scheduled. However, a public hearing will be held if any interested person or his or her duly authorized representative requests a public hearing to be held relevant to the proposed action by submitting a written request to the contact person identified in this notice no later than 5:00 P.M., fifteen (15) days prior to the close of the written comment period.

DEADLINE FOR WRITTEN COMMENTS

Any interested person or his or her duly authorized representative may submit written comments relevant to the proposed regulations to the contact person identified in this notice. All written comments must be received at the department no later than 5:00 P.M. on December 4, 2006, the final day of the written comment period, in order for them to be considered by the department before it adopts the proposed regulations.

AUTHORITY AND REFERENCE

The department proposes to adopt these regulations under the authority granted by Section 1651 and Section 5007 of the Vehicle Code to implement, interpret or make specific Vehicle Code Sections 295.5, 295.7, 22511.55 and 22511.59.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Vehicle Code Section 5007 authorizes the department to issue a special license plate to a disabled person or disabled veteran, as specified in Vehicle Code Sections 295.5 and 295.7, upon application and without additional fees and requires the department to adopt procedures to be used in the issuance of these special license plates. Vehicle Code Sections 22511.55 and 22511.59

authorize the department to issue disabled person parking placards.

Assembly Bill 2120, Chapter 116, Statutes of 2006, expands the health care professionals authorized to sign the certificate substantiating the applicant's disability to include physician assistants, nurse practitioners, and certified nurse midwives.

The department proposes to adopt Sections 182.00, 182.01 and 182.02, Title 13, California Code of Regulations. The proposed sections will prescribe the departmental form to be used by a person applying for a Disabled Person License Plate or Placard. These sections also provide instruction on completing the form and indicate other necessary documentation required by the department to issue disabled person license plates or placards.

DOCUMENTS INCORPORATED BY REFERENCE

The following form is incorporated by reference in Section 182.01. This form is not published in the California Code of Regulations, because it would be impractical and cumbersome to publish this document in the Code of Regulations.

- Application for Disabled Person Placard or Plates, REG 195 (REV 5/2005)

The form is available on the department's internet website, in any field office, or by calling the department's toll free telephone number at (800) 777-0133.

FISCAL IMPACT STATEMENT

- Cost Or Savings To Any State Agency: None.
- Other Non-Discretionary Cost or Savings to Local Agencies: None.
- Costs or Savings in Federal Funding to the State: None.
- Cost Impact on Representative Private Persons or Businesses: The department is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.
- Effect on Housing Costs: None.

DETERMINATIONS

The department has made the following initial determinations concerning the proposed regulatory action:

- The proposed regulatory action will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. No studies or data were relied upon in support of this proposal.

- The adoption of this regulation will neither create nor eliminate jobs or businesses in the state of California, will not result in the elimination of existing businesses, and will neither reduce nor expand businesses currently doing business in the state of California.
- The proposed regulatory action will not impose a mandate on local agencies or school districts, or a mandate which requires reimbursement pursuant to part 7 (commencing with Section 17500) of Division 4 of the Government Code.
- The proposed regulatory action will not affect small businesses. The proposal provides instructions on applying for disabled person license plates and parking placards.

PUBLIC DISCUSSIONS OF PROPOSED REGULATIONS

A pre-notice workshop, pursuant to Government Code section 11346.45, is not required because the issues addressed in the proposal are not so complex or large in number that they cannot easily be reviewed during the comment period.

ALTERNATIVES CONSIDERED

The department must determine that no reasonable alternative considered by the department or that has otherwise been identified and brought to the attention of the department would be more effective in carrying out the purpose for which the action is proposed, or would be as effective and less burdensome to affected private persons than the proposed action.

CONTACT PERSON

Inquiries relevant to the proposed action and questions on the substance of the proposed regulations should be directed to the department representative, Erik Meyer, Department of Motor Vehicles, P.O. Box 932382, Mail Station E-244, Sacramento, California 94232-3820; telephone number (916) 657-8954 or emeyer@dmv.ca.gov. In the absence of the department representative, inquiries may be directed to the Regulations Coordinator, Deborah Baity, at (916) 657-5690 or e-mail dbaity@dmv.ca.gov. The fax number for the Regulations Branch is (916) 657-1204.

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The department has prepared an initial statement of reasons for the proposed action, and has available all the information upon which the proposal is based. The contact person identified in this notice shall make available to the public upon request the express terms of the proposed action using underline or italics to indicate additions to, and strikeout to indicate deletions from, the California Code of Regulations. The contact person identified in this notice shall also make available to the public upon request the final statement of reasons once it has been prepared and submitted to the Office of Administrative Law, and the location of public records, including reports, documentation and other materials related to the proposed action. In addition, the above-cited materials (Initial Statement of Reasons and Express Terms) may be accessed at www.dmv.ca.gov, Other Services, Legal Affairs Division, Public Comments web page.

AVAILABILITY OF MODIFIED TEXT

Following the written comment period, and the hearing if one is held, the department may adopt the proposed regulations substantially as described in this notice. If modifications are made which are sufficiently related to the originally proposed text, the full modified text with changes clearly indicated shall be made available to the public for at least 15 days prior to the date on which the department adopts the resulting regulations. Request for copies of any modified regulations should be addressed to the department contact person identified in this notice. The department will accept written comments on the modified regulations for 15 days after the date on which they are first made available to the public.

TITLE 14. FISH AND GAME COMMISSION

Notice of Proposed Changes in Regulations

NOTICE IS HEREBY GIVEN that the Fish and Game Commission (Commission), pursuant to the authority vested by sections 200, 202, and 2122 of the Fish and Game Code and to implement, interpret or make specific sections 1002, 2116-2118, 2118.2, 2118.3, 2118.4, 2119-2155, 2185-2190, 3005.5, 3005.9 and 3005.92 of said Code, proposes to amend Section 671.5, Title 14, California Code of Regulations, relating to Disposition of Wild Animals Possessed in Violation of Regulations.

INFORMATIVE DIGEST/POLICY STATEMENT
OVERVIEW

Present wording of Fish and Game Code section 671.5 could be interpreted as empowering a person in violation of the law to make decisions relating to disposition of illegally possessed native wild animals, and cause the Department to react to those decisions. The proposed amendment implements and makes specific the seizure requirement of Fish and Game Code section 3005.5 relating to the illegal possession of native wildlife, and clarifies what options are available to both the illegal possessor and the Department once illegally possessed wild animals have been found. The amendments clarify that the options available to individuals that illegally possess nonnative wildlife, including the option to ship the animal out of state, are not available in the case of illegally possessed native California wildlife. The proposed amendments also clarify that following the seizure of illegally kept native wild animals, the Department has the option of releasing them back to the wild. Other proposed amendments incorporate cost recovery provisions that allow the Department to recover some of its expenses in disposing of seized wildlife. Nonsubstantive amendments throughout the text are intended to enhance the clarity of this section.

NOTICE IS GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held in the City Council Chambers, 777 Cypress Avenue, Redding, California, on Friday, November 3, 2006, at 8:30 a.m., or as soon thereafter as the matter may be heard.

NOTICE IS ALSO GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held in the Santa Monica Main Public Library, Martin Luther King Jr. Auditorium, 601 Santa Monica Blvd., Santa Monica, on Friday, December 8, 2006, at 8:30 a.m., or as soon thereafter as the matter may be heard. It is requested, but not required, that written comments be submitted on or before December 1, 2006 at the address given below, or by fax at (916) 653-5040, or by e-mail to FGC@fgc.ca.gov. Written comments mailed, faxed or e-mailed to the Commission office, must be received before 5:00 p.m. on December 6, 2006. All comments must be received no later than December 8, 2006, at the hearing in Santa Monica, CA. If you would like copies of any modifications to this proposal, please include your name and mailing address.

The regulations as proposed in ~~strikeout~~-underline format, as well as an initial statement of reasons, including environmental considerations and all information upon which the proposal is based (rulemaking file), are on file and available for public review from the agency

representative, John Carlson, Jr., Executive Director, Fish and Game Commission, 1416 Ninth Street, Box 944209, Sacramento, California 94244-2090, phone (916) 653-4899. Please direct requests for the above mentioned documents and inquiries concerning the regulatory process to John Carlson, Jr., or Sheri Tiemann at the preceding address or phone number. **Ms. Nancy Foley, Enforcement Branch, Department of Fish and Game, phone (916) 653-4094, has been designated to respond to questions on the substance of the proposed regulations.** Copies of the Initial Statement of Reasons, including the regulatory language, may be obtained from the address above. Notice of the proposed action shall be posted on the Fish and Game Commission website at <http://www.fgc.ca.gov>.

Availability of Modified Text

If the regulations adopted by the Commission differ from but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency representative named herein.

If the regulatory proposal is adopted, the final statement of reasons may be obtained from the address above when it has been received from the agency program staff.

Impact of Regulatory Action:

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following initial determinations relative to the required statutory categories have been made:

- (a) Significant Statewide Adverse Economic Impact Directly Affecting Businesses, Including the Ability of California Businesses to Compete with Businesses in Other States:

The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

- (b) Impact on the Creation or Elimination of Jobs Within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California:

None.

- (c) Cost Impacts on a Representative Private Person or Business:

The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

- (d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State:
None.
- (e) Nondiscretionary Costs/Savings to Local Agencies:
None.
- (f) Programs Mandated on Local Agencies or School Districts:
None.
- (g) Costs Imposed on Any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4:
None.
- (h) Effect on Housing Costs:
None

Effect on Small Business

It has been determined that the adoption of these regulations may affect small business.

Consideration of Alternatives

The Commission must determine that no reasonable alternative considered by the Commission, or that has otherwise been identified and brought to the attention of the Commission, would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

GENERAL PUBLIC INTEREST

CALIFORNIA AIR RESOURCES BOARD

**NOTICE OF PUBLIC MEETING TO ADOPT
REVISIONS TO THE CARL MOYER
INCENTIVE PROGRAM GUIDELINES:
LIGHT-DUTY VEHICLE CHAPTER**

The Air Resources Board (the Board or ARB) will conduct a public hearing at the time and place noted below to consider revisions to the Carl Moyer Incentive Program Guidelines: Light-Duty Vehicle Chapter. Consideration of the proposed revisions is tied directly to the proposed amendments to the Voluntary Accelerated Vehicle Retirement (VAVR) regulation, which is also scheduled for consideration at the same public hearing and is the subject of a separate notice. The proposed revisions to the VAVR regulation include adding criteria for the Voluntary Repair of Light-Duty Vehicles (VRV).

DATE: December 7, 2006

TIME: 9:00 a.m.

PLACE: Kern County Board of Supervisors
1115 Truxtun Avenue
Board Chambers, 1st Floor
Bakersfield, CA 93301

This item will be considered at a two-day meeting of the Board, which will commence at 9:00 a.m., December 7, 2006, and may continue to 8:30 a.m., December 8, 2006. This item may not be considered until December 8, 2006. Please consult the agenda for the meeting, which will be available at least ten days before December 7, 2006, to determine the day on which this item will be considered.

For individuals with sensory disabilities, this document is available in Braille, large print, audiocassette, or computer disk. Please contact ARB's Disability Coordinator at (916) 323-4916 by voice or through California Relay Services at 711 to place your request for disability services. If you are a person with limited English and would like to request interpreter services, please contact ARB's Bilingual Manager at (916) 323-7053.

Background:

The Carl Moyer Memorial Air Quality Standards Attainment Program funds projects that voluntarily reduce air emissions. Established in 1999 by sections 44275 through 44299.1 of the California Health and Safety Code (HSC), its purpose is to obtain early emission reductions (those that are not currently required by statute or regulation) in order to help California attain health-based ambient air quality standards and meet its air quality obligations under the State Implementation Plan. The Carl Moyer Program provides grants to local air districts for disbursement to applicants to fund the incremental cost of lower-emission vehicles, engines, and equipment. In essence, the Carl Moyer Program buys critical emission benefits that California needs to attain state standards and to meet federal air quality deadlines.

The Carl Moyer Program is implemented through guidelines, criteria, and protocols adopted by ARB. The Board approved the last revisions to the Carl Moyer Program Guidelines in December 2005. In conjunction with proposed amendments to the VAVR regulation, it is necessary to revise the Carl Moyer Program Guidelines to reflect the proposed new provisions and emission information. If adopted by the Board, these proposed regulatory revisions will affect Carl Moyer Program projects.

Voluntary Accelerated Vehicle Retirement programs were first introduced in California in the early 1990s. The goal of such programs is to retire older, more polluting vehicles earlier than the end of their expected lifetime, thereby eliminating the emissions associated

with their continued operation. VAVR programs are strictly voluntary programs overseen by ARB and administered by local air districts. To qualify for a VAVR program, a vehicle must meet registration, functionality, and equipment eligibility criteria. To accommodate car collectors and others with interest in vehicles offered for retirement, VAVR programs provide the public with an opportunity to purchase vehicles in whole or in part before the vehicles are retired.

The Health and Safety Code (sections 44100–44122) required ARB to adopt a regulation governing VAVR that included provisions for market-based, privately-operated, VAVR enterprises and the generation of emission reduction credits. The Board adopted VAVR regulations in 1998 at title 13 California Code of Regulations (CCR) sections 2600–2611 and amended them in 2002.

Light-duty vehicle projects became eligible for Carl Moyer Program funding as a result of legislative changes enacted in 2004 (Assembly Bill 923; see HSC sections 44229(b)(1) and (4) and section 44281(a)(5)). The Board first adopted project criteria for light-duty vehicle programs in the 2005 revision to the Carl Moyer Program Guidelines. At that time, the Board approved guidelines for conventional VAVR programs operated in accordance with ARB's existing regulations for VAVR. ARB deferred the development of the Voluntary Repair of Light-duty Vehicles (VRV) guidelines until 2006 to allow time to fully evaluate the challenges of operating vehicle repair programs.

From March 2006 through September 2006, ARB staff held a series of public workshops to gather public comments regarding the proposed additions of criteria for the VRV as well as for the amendments to the VAVR regulation. ARB staff also worked closely with the air districts during development of the criteria and guidelines to facilitate flexibility with district programmatic needs. These guidelines are exempt from the Administrative Procedure Act (Government Code section 11340, et seq.) and instead are subject to specific adoption procedures specified in HSC section 44287, which directs ARB to allow the public 45 days to comment on any proposed revisions to the Carl Moyer Program before they may be adopted by the Board. The staff's proposed revisions were made available to the public on October 20, 2006 and will be considered by the Board at the time and place listed above.

Proposed Revisions:

As part of the VAVR program, ARB staff is proposing criteria for inclusion of VRV programs in the Carl Moyer Program as an additional option for reducing emissions from high emitting vehicles. The proposed amendments to the 2002 VAVR regulation would authorize the optional use of remote sensing devices and

other technologies to identify high emitting vehicles as possible candidates for voluntary retirement. These regulatory amendments will be considered in conjunction with closely related amendments to the Carl Moyer Program Guidelines. In such programs, the highest emitting vehicles in the fleet would be identified via remote sensing devices or other methods and the owners of these vehicles would be contacted and offered an opportunity to voluntarily retire their vehicles. The proposed changes to the VAVR regulation specify the framework for running a high emitter VAVR/VRV program and provide for calculating emission reductions that reflect the high-emitting nature of qualified vehicles. The proposed changes will leave in place existing provisions for conventional VAVR programs, where the emissions of the retired vehicle are assumed to reflect the average emissions of vehicles of the same model year. The changes will also establish the guidelines for inclusion of VRV under the VAVR regulation to further accelerate early emissions reductions from the light-duty vehicle fleet.

Key Elements of the VRV: Vehicle repair projects must achieve surplus emission reductions to receive funding under the Carl Moyer Program. Vehicle owners routinely pay for repairs on their own vehicles. Simply shifting the cost of repairs from the owner to the State does not, in and of itself, result in surplus emission reductions. Surplus emission reductions are achieved only by: (1) funding repairs that would not have occurred otherwise; and (2) accelerating repairs so they occur earlier than they would have otherwise. Distinguishing repairs that would only occur with State funding from those that would have happened in the absence of the Carl Moyer Program ("anyways reductions") is a challenge. Staff is proposing project criteria that attempt to prevent funding these "anyways reductions," and is proposing that districts evaluate their VRV plans to ensure their programs would prevent funding repairs which would have occurred in absence of the program.

Critical to the success of vehicle repair projects is ensuring that emission control system failures are correctly diagnosed and repaired so that real emission reductions are achieved. Staff is proposing project criteria requiring systematic diagnosis and repair in accordance with standard industry protocols to ensure that vehicles are correctly and efficiently repaired.

AVAILABILITY OF DOCUMENTS AND AGENCY CONTACT PERSONS

The proposed revisions to the Carl Moyer Program Guidelines will be presented by ARB staff at the Board meeting. Copies of the proposed revised chapter of the Guidelines may be accessed on the ARB's web site: <http://www.arb.ca.gov/msprog/moyer/moyer.htm>, or

may be obtained from the Public Information Office, Air Resources Board, 1001 I Street, Visitors and Environmental Resources Center, 1st Floor, Sacramento, CA 95814, (916) 322-2990 at least 45 days prior to the scheduled hearing on December 7, 2006.

Further inquiries concerning this matter may be directed to the designated agency contact persons: John Kato, Manager of the Innovative Strategies Section, at (916) 322-2891 or by e-mail at jkato@arb.ca.gov; Andrew Panson, Staff Air Pollution Specialist, at (916) 323-2881 or by e-mail at apanson@arb.ca.gov; or Tom Roemer, Air Pollution Specialist, at (916) 322-1520 or by e-mail at troemer@arb.ca.gov.

SUBMITTAL OF COMMENTS

Interested persons may present comments relating to this matter orally or in writing at the hearing, and in writing or by e-mail before the hearing. To be considered by the Board, written submissions not physically submitted at the hearing must be received **no later than 12:00 noon, December 6, 2006**, and addressed to the following:

Postal mail: Clerk of the Board, Air Resources Board
1001 I Street, Sacramento, California 95814

Electronic submittal: <http://www.arb.ca.gov/lispub/comm/bclist.php>

Facsimile submittal: (916) 322-3928

The Board requests but does not require that 30 copies of any written statement be submitted and that all written statements be filed at least ten days prior to the hearing so that ARB staff and Board Members have time to fully consider each comment. The ARB encourages members of the public to bring to the attention of staff in advance of the hearing any suggestions for modification of the proposed action.

The public may request a copy of the modified regulatory text from the ARB's Public Information Office, Air Resources Board, 1001 I Street, Visitors and Environmental Services Center, 1st Floor, Sacramento, CA 95814, (916) 322-2990.

DECISION NOT TO PROCEED

DEPARTMENT OF INSURANCE

Legal Division, Rate Enforcement Bureau — Sacramento

300 Capitol Mall, 17th Floor
Sacramento, CA 95814

Lisbeth Landsman-Smith
Staff Counsel

TEL: 916-492-3561

FAX: 916-324-1883

E-Mail: landsmanl@insurance.ca.gov

www.insurance.ca.gov

October 4, 2006

VIA FACSIMILE AND US MAIL (310) 319-0156

Bryce Gee, Esq.

Strumwasser & Woocher LLP

100 Wilshire Boulevard, Suite 1900

Santa Monica, California 90401

SUBJECT: Decision on Petition for Emergency and Permanent Rulemaking

Dear Mr. Gee:

On September 7, 2006, the Insurance Commissioner of the State of California received a petition from you on behalf of the California Earthquake Authority ("Petitioner"). Petitioner, pursuant to Government Code sections 11340.6 and 11346.1, requested that the Commissioner undertake rulemaking proceedings to amend Title 10, Sections 2697.6 and 2697.61 of the California Code of Regulations.

The Commissioner hereby grants the Petition for Emergency and Permanent Rulemaking. The circumstances detailed in the Petition, the unforeseen time constraints, and existing case law support promulgating this regulation on an emergency basis. Pursuant to Government Code, section 11340.7, the Commissioner intends to schedule this matter for public hearing in accordance with the requirements of Article 5 of the Government Code (commencing with section 11346). Interested persons may obtain a copy of the petition from, or direct questions to, me.

Sincerely,

/s/

Lisbeth Landsman-Smith
Staff Counsel

cc: Daniel Marshall (CEA)

SUMMARY OF REGULATORY ACTIONS

REGULATIONS FILED WITH SECRETARY OF STATE

This Summary of Regulatory Actions lists regulations filed with the Secretary of State on the dates indicated. Copies of the regulations may be obtained by contacting the agency or from the Secretary of State, Archives, 1020 O Street, Sacramento, CA, 95814, (916) 653-7715. Please have the agency name and the date filed (see below) when making a request.

BOARD OF FORESTRY AND FIRE PROTECTION Lake Tahoe Region Exemption, 2006

This regulatory action amends 14 CCR 1038 and revises a definition in §895.1 in order to exempt Timber Harvesting Plan filing requirements of the Forest Practice Act when harvesting live trees in a watercourse and lake protection zone (WLPZ) in the Lake Tahoe region for the purpose of reducing fire hazards. This amendment allows for live tree removal for fuelwood use or other minor forest products only in certain specified areas with specified low impact equipment. Exemptions conducted under this amendment will require a Tree Removal Permit issued by the Tahoe Regional Planning Agency (TRPA) and certified by the Lahontan Regional Water Quality Control Board (RWQCB).

Title 14
California Code of Regulations
AMEND: 895, 895.1, 1038, 1038(f)
Filed 10/11/06
Effective 01/01/07
Agency Contact:
Christopher Zimny (916) 653-9418

BOARD OF PAROLE HEARINGS Implementation of Penal Code Section 3000.1

Adopts section 2275 of Title 15 to provide that parole hearings for prisoners who formerly served a life sentence and were paroled and whose parole was subsequently revoked shall be conducted by a two person panel comprised of one commissioner and one deputy commissioner.

Title 15
California Code of Regulations
ADOPT: 2275
Filed 10/06/06
Effective 10/06/06
Agency Contact: Teresa A. Arcure (916) 322-9424

BUREAU OF AUTOMOTIVE REPAIR

Deletion of References to the BAR-90 Test Analyzer System (TAS)

This action makes nonsubstantive corrections to various BAR regulations including repealing references to the obsolete BAR-90 Test Analyzer System (TAS).

Title 16
California Code of Regulations
AMEND: 3303.2, 3340.15, 3340.18, 3340.32, 3340.42, 3394.5
Filed 10/11/06
Effective 10/11/06
Agency Contact: James Allen (916) 255-4300

CALIFORNIA HIGH SPEED RAIL AUTHORITY Selection Process for Private Architectural and Engineering Firms

This action adopts regulations that specify the procedure and standards for the Authority to follow when contracting for architectural or engineering services to be furnished by qualified professional entities for public works in connection with the development of high speed rail service.

Title 21
California Code of Regulations
ADOPT: 10000, 10000.1, 10000.2, 10000.3, 10000.4, 10000.5, 10000.6, 10000.7, 10000.8, 10000.9, 10000.10, 10000.11, 10000.12, 10000.13
Filed 10/06/06
Effective 10/06/06
Agency Contact: Carrie Pourvahidi (916) 322-1422

CALIFORNIA INSTITUTE FOR REGENERATIVE MEDICINE

Scientific and Medical Accountability Standards

The California Institute for Regenerative Medicine ("CIRM") was established in 2005 pursuant to the passage of Prop 71, the CA Stem Cell Research and Cures Initiative. Prop 71 provides \$3 billion in funding for stem cell research and research facilities through grants and loans. (Other types of research may also be funded.) The "ICOC" is the governing board of CIRM which must promulgate the standards and regulations governing the new institute. These regulations "focus on the derivation, procurement, banking, and use of human embryonic stem (hES) cell lines." They also address "informed consent" requirements with respect to donated materials and establishment of oversight committees responsible for ensuring compliance with the regulations. Two sections submitted (Sections 100120 and 100130) were withdrawn by CIRM pending further action. These regulations will be effective November 22, 2006.

Title 17

California Code of Regulations

ADOPT: 100010, 100020, 100030, 100040,
100050, 100060, 100070, 100080, 100090, 100095,
100100, 100110, 100120, 100130

Filed 10/10/06

Effective 11/22/06

Agency Contact: C. Scott Tocher (415) 396-9136

**CALIFORNIA INSTITUTE FOR REGENERATIVE
MEDICINE****Working Group Conflict of Interest Rules**

The California Institute for Regenerative Medicine ("CIRM") was established in 2005 pursuant to the passage of Prop 71, the CA Stem Cell Research and Cures Initiative ("Act"). Prop 71 provides \$3 billion in funding for stem cell research and research facilities through grants and loans. The "ICOC" is the governing board of CIRM which must promulgate the standards and regulations governing the new institute. To help in this task, the Act created three working groups, called Grants Review, Facilities, and Medical and Ethical Standards, which draw on outside experts for advice. This regulatory action establishes conflict of interest requirements for members of these advisory bodies.

Title 17

California Code of Regulations

ADOPT: 100001, 100002, 100003, 100004

Filed 10/05/06

Effective 11/04/06

Agency Contact: C. Scott Tocher (415) 396-9136

**DEPARTMENT OF DEVELOPMENTAL SERVICES
Three Percent Respite Rate Increases**

This action amends the rates and effective dates for respite services in order to make them consistent with amendments to the Welfare & Institutions Code recently enacted as a result of AB 1807 (Chapter 74, Statutes of 2006), signed by the Governor and filed with the Secretary of State on July 12, 2006. The statutory language included a condition requiring "funds specifically appropriated for this increase in the Budget Act of 2006." This condition was met in AB 1801 (Chapter 47, Statutes of 2006), Line Items 4300-101-0001 and 4300-101-0890.

Title 17

California Code of Regulations

AMEND: 57310(b)(3), 57332(c)(3)(A),
57332(9)(A)2.a

Filed 10/04/06

Effective 11/03/06

Agency Contact:

Maureen Miyamura (916) 654-1816

DEPARTMENT OF FOOD AND AGRICULTURE**Diaprepes Root Weevil Interior Quarantine**

This filing is the certificate of compliance for former emergency regulatory action which added approximately two square miles of land to the quarantine area defined in 3 CCR § 3433(b)(3)(B) near Encinitas, California to the quarantine area for this pest. None of the subsequent quarantine areas (3 CCR § 3433(b)(3) (C-E)) are included in this certification.

Title 3

California Code of Regulations

AMEND: 3433(b)

Filed 10/05/06

Effective 10/05/06

Agency Contact: Stephen Brown (916) 654-1017

DEPARTMENT OF FOOD AND AGRICULTURE**Japanese Beetle Eradication Area**

This action is the Certificate of Compliance filing making permanent the prior emergency amendment of 3 CCR §3589 establishing San Diego County as an eradication area for Japanese beetles.

Title 3

California Code of Regulations

AMEND: 3589

Filed 10/05/06

Effective 10/05/06

Agency Contact: Stephen Brown (916) 654-1017

DEPARTMENT OF FOOD AND AGRICULTURE**Oak Mortality Disease Control**

This emergency action modifies the existing oak mortality disease control regulation by adding four plant species to the list of hosts or potential carriers of the disease, eight plant species to the list of associated articles (nursery stock), and specifies the particular cultivars of Rosa covered by the regulation.

Title 3

California Code of Regulations

AMEND: 3700(c)

Filed 10/06/06

Effective 10/10/06

Agency Contact: Stephen Brown (916) 654-1017

DEPARTMENT OF FOOD AND AGRICULTURE**Guava Fruit Fly Eradication Area**

This emergency regulatory action adds the entire County of Alameda to the guava fruit fly eradication area. (DFA File Number PH0665.)

Title 3

California Code of Regulations

AMEND: 3591.13(a)

Filed 10/06/06

Effective 10/06/06

Agency Contact: Stephen Brown (916) 654-1017

DEPARTMENT OF INSURANCE

CAARP Commercial Forms Endorsements

The Insurance Services Office (ISO) has introduced revisions to the Commercial Auto Coverage Parts Program (CACP) and related endorsements to replace the California July 1997 Edition. In the past CAARP has adopted the latest ISO CACP changes, however no changes have been adopted since 1997. This filing is a resubmittal of a previously withdrawn regulatory action which includes changes necessary to make current the forms used by CAARP in order to keep up to date with editorial corrections, revisions, and updated definitions.

Title 10

California Code of Regulations

AMEND: 2498.4.9

Filed 10/10/06

Effective 11/09/06

Agency Contact: Mike Riordan (415) 538-4226

DEPARTMENT OF MOTOR VEHICLES

Conflict of Interest Code

The Department of Motor Vehicles is amending its conflict of interest code found at Title 13, section 1, California Code of Regulations. This amendment was approved for filing by the Fair Political Practices Commission on August 22, 2006.

Title 13

California Code of Regulations

AMEND: Section 1

Filed 10/05/06

Effective 11/04/06

Agency Contact: Randi Calkins (916) 657-8898

FISH AND GAME COMMISSION

Baker's Larkspur — Uplist from Rare to Endangered

Fish and Game Commission proposes amendment to 14 CCR 670.2 to uplist Baker's larkspur (*Delphinium bakeri*) from rare to endangered due to immediate threat to the continued existence of this plant in the wild.

Title 14

California Code of Regulations

AMEND: 670.2

Filed 10/06/06

Effective 11/05/06

Agency Contact: Sherrie Koell (916) 653-4899

**CCR CHANGES FILED
WITH THE SECRETARY OF STATE
WITHIN MAY 10, 2006 TO
OCTOBER 11, 2006**

All regulatory actions filed by OAL during this period are listed below by California Code of Regulations titles, then by date filed with the Secretary of State, with the Manual of Policies and Procedures changes adopted by the Department of Social Services listed last. For further information on a particular file, contact the person listed in the Summary of Regulatory Actions section of the Notice Register published on the first Friday more than nine days after the date filed.

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